

**Effective 3/28/2016**

**63G-6a-1601.5 Definitions.**

As used in this part:

- (1) "Constructive knowledge":
  - (a) means knowledge or information that a protestor would have if the protestor had exercised reasonable care or diligence, regardless of whether the protestor actually has the knowledge or information; and
  - (b) includes knowledge of:
    - (i) applicable provisions of this chapter and other law and administrative rule;
    - (ii) instructions, criteria, deadlines, and requirements contained in the solicitation or in other documents made available to persons interested in the solicitation or provided in a mandatory pre-solicitation meeting;
    - (iii) relevant facts and evidence supporting the protest or leading the protestor to contend that the protestor has been aggrieved in connection with a procurement;
    - (iv) communications or actions, pertaining to the procurement, of all persons within the protestor's organization or under the supervision of the protestor; and
    - (v) any other applicable information discoverable by the exercise of reasonable care or diligence.
- (2) "Protestor" means a person who files a protest under this part.
- (3) "Standing" means to have suffered an injury or harm or to be about to suffer imminent injury or harm, if:
  - (a) the cause of the injury or harm is:
    - (i) an infringement of the protestor's own right and not the right of another person who is not a party to the procurement;
    - (ii) reasonably connected to the procurement unit's conduct; and
    - (iii) the sole reason the protestor is not considered, or is no longer considered, for an award of a contract under the procurement that is the subject of the protest;
  - (b) a decision on the protest in favor of the protestor:
    - (i) is likely to redress the injury or harm; and
    - (ii) would give the protestor a reasonable likelihood of being awarded a contract; and
  - (c) the protestor has the legal authority to file the protest on behalf of the actual or prospective bidder or offeror or prospective contractor involved in the procurement that is the subject of the protest.

Enacted by Chapter 355, 2016 General Session